



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



**Thomas S. Burack, Commissioner**

February 7, 2007

Representative Naida L. Kaen, Chairman  
House Science, Technology and Energy Committee  
Legislative Office Building, Room 304  
Concord, NH 03301

**RE: HB 427, an act relative to construction and demolition debris**

Dear Chairman Kaen:

Thank you for the opportunity to comment on HB 427, which, as amended by the sponsors, would modify RSA 149-M, the Solid Waste Management Act, to provide that the wood component of construction and demolition debris (C&D) or any mixture or derivatives therefrom shall not be designated as a waste-derived product that may be combusted. The Department of Environmental (DES) supports this bill.

RSA 149-M and rules adopted by DES require that any person who collects, stores, processes or disposes of solid waste in New Hampshire must have a permit, which is not granted unless the applicant meets rigorous technical, financial and qualifications criteria. Consistent with the solid waste disposal hierarchy established in RSA 149-M, DES adopted rules intended to facilitate the recycling and reuse of those components of the solid waste stream that can be safely and beneficially reused. DES has, in the Solid Waste Rules, identified certain products which are "certified waste-derived products" by virtue of their being "common to the marketplace and pos[ing] no greater risk to the environment, public health and safety than exists by distributing and using comparable products that are not waste-derived." For example, "salvaged products" such as bricks reused as bricks, and "cloned products" such as paper products made from comparable discarded paper products, are certified waste-derived products and, therefore, deemed certified for distribution and use in the stream of commerce. Importantly, once a waste-derived product is certified, it is no longer regulated as a solid waste until it is itself discarded.

In addition to listing certain products that are deemed by rule to be waste-derived products, the Solid Waste Rules set forth criteria that are to be considered by the DES in the event that a party applies for certified waste-derived product status for other products not specifically identified in the Rules. These criteria require, among other things, a demonstration by the applicant "that the overall benefit(s) derived for society from production and use of the product shall exceed the benefit(s) of not producing and using the product," based on satisfying criteria of need, product quality and quality control, and impact on society. To date, DES has issued 19 waste-derived product certifications, including for such products as wood ash used as a fertilizing material, and asphalt shingles used in various kinds of roadway aggregate.

DES Web site: [www.des.nh.gov](http://www.des.nh.gov)

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-2867 • TDD Access: Relay NH 1-800-735-2964

Currently, there is no such certification for the wood component of construction and demolition debris to be combusted as a fuel, and it is unlikely, although not impossible, that such materials could meet the approval criteria for designation as a certified waste-derived product. The purpose of HB 427 is to make it clear, as a matter of state policy and law, that wood from construction and demolition debris is not eligible for certification as a waste-derived product for use as a fuel for combustion.

HB 427 is a complement to HB 428, which is also supported by the DES, and which would ban the combustion of the wood component of C&D. Together, these bills will help sustain a high quality of life for all New Hampshire citizens by preventing adverse human health and environmental impacts from potentially harmful emissions resulting from the combustion of these materials.

As originally introduced, the language of HB 427 created some concern within DES over the breadth of the potential limitations on the salvaging and reuse of the wood component of construction and demolition debris. The amendment addresses this concern without compromising environmental protection by focusing on the potential combustion of these materials.

DES appreciates the opportunity to testify on this bill. If you have any questions regarding this letter of testimony, please do not hesitate to call me at 271-2958 or Waste Management Division Director Tony Giunta at 271-2905.

Sincerely,

A handwritten signature in black ink, reading "Thomas S. Burack". A large red "X" is drawn over the signature.

Thomas S. Burack  
Commissioner

cc: Members of the Science, Technology & Energy Committee  
Representatives Hamm, Butynski, and Owen  
Senators Burling, Janeway, Larsen and Fuller Clark